Signed in Washington, DC, this 8th day of May, 2003.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–12563 Filed 5–19–03; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–51,382]**

### OEM Worldwide, Spearfish, South Dakota; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 1, 2003, in response to a petition filed by a company official on behalf of workers at OEM Worldwide, Spearfish, South Dakota.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 9th day of May, 2003.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–12562 Filed 5–19–03; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–41,185]**

### Pittsburgh Logistics Systems, A Subsidiary of Quadrivius, Inc. on Location at LTV Steel Corp.; Independence, Ohio; Notice of Negative Determination of Reconsideration on Remand

The United States Court of International Trade (USCIT) remanded for further investigation of the Secretary of Labor's negative determination in *Former Employees of Pittsburgh Logistics Systems* v. *U.S. Secretary of Labor* (02–00387).

The petition listed Pittsburgh Logistics Systems (PLS) in Rochester, Pennsylvania and PLS in Independence, Ohio as the workers' firm and relevant subdivision. Administrative Record (AR), 3. Therefore, Department of Labor (DOL) investigated both facilities for possible certification. AR, 15. DOL's initial denial of the petition for certification of both worker groups was issued March 29, 2002 and published in the **Federal Register** on April 17, 2002 (67 FR 18923). DOL determined neither facility fulfilled the requirements because, in short, the workers' firm did not produce an article as required by section 222(a)(3) of the Act. AR 17–19.

The PLS Independence, Ohio worker group requested administrative reconsideration on April 29, 2002 as they felt ''that Department of Labor's decision is in error because: Our jobs were eliminated due to lack of work caused by LTV Steel Co., Inc., shutdown due to imports.'' AR 25. DOL denied the request, finding that LTV's closure ''is not relevant'' because the ''subject workers may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to the subject firm by ownership, or a firm otherwise related to the subject firm by control.'' AR 28. DOL's denial was issued on May 30, 2002 and published in the **Federal Register** on June 12, 2002 (67 FR 40341).

Mr. Robert Weintzetl, on behalf of the other petitioners, appealed to the CIT on May 29, 2002, and, on September 5, 2002, attorneys at King & Spalding representing the petitioners *pro bono* filed an amended complaint. On February 28, 2003, the CIT issued an Order remanding the case to DOL ''for redetermination consistent with this Opinion of whether the plaintiffs were eligible for TAA benefits, either as 'production' workers or 'service' workers.'

On the point of whether the employees should be certified as production workers, the CIT ordered DOL to clarify on remand why the work of ''manag[ing] warehousing and distribution'' and ''managing traffic and processing of freight invoices'' makes a petitioner ineligible for certification as a production worker. *Former Employees of Pittsburgh Logistics Systems* v. *United States Secretary of Labor,* Slip Op. 03–21, February 28, 2003, pg. 13. Regarding whether the employees should be certified as service workers, the CIT found that DOL had failed to fully investigate and articulate the ''corporate control'' issue that is part of DOL's service worker analysis.

Section 222(a)(3) of the Trade Act establishes that DOL must not certify a group unless ''increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.'' The phrase of particular importance in this case is ''articles produced by such workers' firm or an appropriate subdivision thereof.'' Under this requirement, DOL must deny certification to a worker group unless the workers' firm or an appropriate subdivision of the workers' firm produced an import-impacted article.

DOL's interpretation of the phrase ''appropriate subdivision thereof'' is limited to related or affiliated firms; cannot be expanded to encompass two unaffiliated firms. This interpretation of the phrase ''appropriate subdivision'' is consistent with section 222(a)(1) which requires DOL to consider whether a significant number of workers have been separated from ''the workers' firm or appropriate subdivision of the firm.'' Because the Act clearly limits ''appropriate subdivision'' to just ''the'' workers' firm in the first requirement, DOL understands Congress to have intended to similarly limit ''appropriate subdivision'' in the immediately following requirements.

This limitation is reflected in the regulations. The regulatory definition of ''firm'' states, ''[a] firm, together with any predecessor or successor-in-interest, or together with any affiliated firm controlled or substantially beneficially owned by substantially the same persons, may be considered a single firm.'' 29 CFR 90.2. This language allows the phrase ''workers' firm'' to include more than one entity, but only to the extent that those multiple entities are ''controlled or substantially beneficially owned by substantially the same persons.'' Section 90.2 of the regulations defines ''appropriate subdivision'' as one of three types of subdivisions, none of which permit the inclusion of a worker group employed by one firm to be included as within the ''appropriate subdivision'' of another, unaffiliated firm. The first two types of ''appropriate subdivisions'' are expressly limited to one ''firm'': either ''an establishment in a multi-establishment firm'' or ''a distinct part or section of an establishment (whether or not the firm has more than one establishment) where the articles are produced.'' ''One definition of establishment * * * is 'a permanent organization,' and would encompass any subdivision *up to* the size of the entire corporation.'' (Emphasis added.) *International Union, UAW* v. *Marshall,* 584 F.2d 390 (D.C. Cir. 1978).

The third type of ''appropriate subdivision'' encompasses ''auxiliary facilities operated in conjunction with (whether or not physically separate from) production facilities.'' This broadens the term ''appropriate subdivision'' to include a facility that does not produce an article. However, this definition ''has connotations that a

subdivision can never be larger than a single 'establishment.' The definition's limited use of 'auxiliary facilities' implies that any physically separate operation may be part of a subdivision only if it is merely auxiliary and used in conjunction with the main production unit.'' *Lloyd* v. *U.S. Dep't of Labor,* 637 F.2d 1267, 1274 (9th Cir. 1980). In *Lloyd,* the CIT stated that the word ''auxiliary'' implies that a facility will only be deemed an appropriate subdivision if it is a subsidiary part of a firm that is producing an article. In addition, the phrase '''[o]perated in conjunction with' implies that the auxiliary facility must be run by the same firm as the production facility or facilities.'' *Id.*

**Production Worker Analysis**

When a worker group applies for assistance, the fundamental test DOL applies is whether the workers' firm or an appropriate subdivision of the workers' firm produced an import-impacted article during the relevant period. If the worker group produces such an article, then they are deemed ''production workers.''

Because an ''appropriate subdivision'' is limited to the ''workers' firm'' and Section 90.2 of the regulations permits the inclusion of multiple entities within the term ''firm'' only if they are affiliated entities, on remand DOL conducted additional investigation of the relationship between PLS and LTV. The investigation indicates that substantially the same persons do not control PLS and LTV. Supplemental Administrative Record (SAR) 43. No corporate official of one company is also a board member or officer of the other (or of Quadrivius). SAR 42. Substantially the same persons do not own PLS and LTV. LTV was a publicly owned company. PLS is a wholly owned subsidiary of Quadrivius. SAR 36. Quadrivius is a privately owned company. SAR 39. After LTV's bankruptcy, PLS continued business. AR 25. The contract between LTV and PLS indicates that they are separate corporations. SAR 108. Therefore, DOL finds that LTV and PLS are not ''controlled or substantially beneficially owned by substantially the same persons.'' 29 CFR 90.2. They are independent business entities and as the word ''firm'' is defined by section 90.2, ''workers' firm'' cannot mean both LTV and PLS.

DOL has considered which factors of employment exercised by a firm establish that it is ''the'' workers' firm. DOL has consistently determined that the critical employment factor is which firm was obligated to pay the employee during the relevant period. Because PLS was so obligated, DOL has determined that PLS is ''the'' workers' firm. SAR 40. Furthermore, the contract establishes that ''PLS shall hire and use its own employees to provide the services described in this contract'' (SAR 108) and ''PLS is supplying its own employees, which is (*sic*) controls and directs for employment purposes.'' SAR 111. PLS ''hired and fired'' the relevant worker group. SAR 40. Therefore, DOL finds that the petitioners are employees of PLS and cannot be certified as an appropriate subdivision (or as part of an appropriate subdivision) of LTV.

The CIT Opinion ordered DOL ''to explain to petitioners how their work was unrelated to production, not merely state that it was.'' This suggests that the CIT wants DOL to change the test of whether one qualifies as a production worker to whether the workers' tasks are ''related'' to production. Such a change would violate section 222(a)(3) which, as stated earlier, requires actual production by the workers' firm or an appropriate subdivision of the workers' firm. In addition, this change conflicts with previous CIT decisions that support DOL's determination that the test for production must involve the transformation of a thing into something ''new and different.'' *Nagy* v. *Donovan,* 6 CIT 141, 145, 571 F.Supp. 1261, 1264 (1983).

DOL thoroughly investigated and could not find any evidence that any employees of PLS or Quadrivius actually produced any articles. AR 4, AR 11, AR 13, SAR 39. The workers' job descriptions indicate that from their workstations in LTV's Independence, Ohio facility, they managed the transportation of items to and from LTV's production facility in Cleveland, Ohio. SAR 20–28. Because there is no evidence that the petitioners transformed anything into something ''new and different,'' they are not eligible for certification as production workers.

**Service Worker Analysis**

On the issue of whether the petitioners should be certified as service workers, the petitioners argued that they should be certified because: they performed their job inside an LTV facility, they were supervised by LTV employees, and they were employees of LTV prior to their employment with PLS. (LTV's employees at the Independence, Ohio facility did not produce any articles. AR 16, SAR 37, SAR 48, SAR 50, SAR 68. They were certified as a third type of appropriate subdivision because they provided services to LTV's Cleveland, Ohio production facility. SAR 57.)

As stated earlier, when a worker group applies for assistance, the fundamental test called for by section 222 of the Trade Act is whether the workers' firm or an appropriate subdivision of the workers' firm produced an import-impacted article during the relevant period. If there is no evidence that the worker group applying for certification produced an import-impacted article, it may only be certified if: (1) The workers' separations were caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to the subject firm by ownership, or a firm related by control; (2) the reduction in the demand for their services originated at a production facility whose workers independently met the statutory criteria for certification; and (3) the reduction directly related to the product impacted by imports. *Abbott* v. *Donovan,* 6 CIT 92, 100–101, 570 F.Supp. 41, 49 (1983). This ''elaborated'' analysis is necessary to determine whether a worker group has met the regulatory requirements of a type three appropriate subdivision: that the worker groups' facility is ''auxiliary'' and ''operates in conjunction with a production facility.'' This analysis is customarily called the ''support service'' analysis, but it is actually not much different than the fundamental test that DOL applies to every application for certification.

The first requirement (''the workers' separation were caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to the subject firm by ownership, or a firm related by control'') focuses on the definition of ''firm'' as it is used in the fundamental test. For multiple entities to be considered a single workers' firm, such entities must be ''controlled or substantially beneficially owned by substantially the same persons.'' 29 CFR 90.2. As discussed earlier, PLS and LTV are not controlled or substantially beneficially owned by substantially the same persons. The regulations establish that DOL cannot certify the petitioners as service workers because their firm is unaffiliated with a firm that produces or produced an import-impacted article.

**Conclusion**

Whether the performance of services by the petitioners is related or unrelated to production is not relevant to determining their eligibility for certification. Under section 222 of the Act, what is relevant is whether the workers' firm or an appropriate subdivision of the workers' firm

produces an article. The workers' firm in this case is PLS. As acknowledged in the Court's Opinion, the relevant petitioners in this remand action ''were employed by Pittsburgh Logistics Systems, Inc. (PLS) and worked on-site at LTV's facilities in Independence, Ohio.'' Slip Op. 2. PLS is a subsidiary of Quadrivius. SAR 36. Neither PLS not Quadrivius are affiliated with LTV. SAR 43. The evidence clearly establishes that PLS and Quadrivius do not produce, directly or through an appropriate subdivision, an import-impacted article. ''Once DOL concludes that the workers'' employer was not a firm that produced an import-impacted article, it may conclude that the workers are not eligible for assistance without further analysis.'' *Stanley Smith* v. *U.S. Sec'y of Labor,* 20 CIT 201, 204, 967 F.Supp.512, 515 (1996). Because the petitioners are employees of a firm or subdivision that does not produce a trade-impacted article, they are not eligible for certification.

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for the former workers of PLS.

Signed at Washington, DC, this 5th day of May, 2003.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–12566 Filed 5–19–03; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–51,598]**

## Potash Corporation of Saskachewan, Inc., Information Systems Department, North Brook, Illinois; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 25, 2003, in response to a worker petition filed on behalf of workers at Potash Corporation of Saskatchewan, Inc., Information Systems Department, North Brook, Illinois, and Aurora, North Carolina.

The petition regarding the investigation was not signed by three workers employed at each of the locations indicated in the petition and has therefore been deemed invalid. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 9th day of May, 2003.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–12564 Filed 5–19–03; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–51,439]**

## Royal Hosiery Company, Inc., Granite Falls, North Carolina; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on April 7, 2003 in response to a petition filed by a company official on behalf of workers at Royal Hosiery Company, Inc., Granite Falls, North Carolina.

The company official has requested that the investigation be terminated.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 1st day of May, 2003.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–12571 Filed 5–19–03; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–51,603]**

## Sony Semiconductor San Antonio, Texas; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 25, 2003, in response to a petition filed on behalf of workers at Sony Semiconductor, San Antonio, Texas.

The workers who filed the petition have requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed in Washington, DC this 6th day of May 2003.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–12572 Filed 5–19–03; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–51,656]**

## Springs Industries Customer Service Center Lancaster, South Carolina; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 1, 2003, in response to a petition filed on behalf of workers at Springs Industries, Customer Service Center, Lancaster, South Carolina.

The petitioners were separated from the subject firm more than one year prior to the date on the petition. Section 223 (b) of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 6th day of May 2003.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03–12574 Filed 5–19–03; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–51,046]**

## Western Geco, LLC, Houston, Texas; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 4, 2003 in response to a worker petition filed on behalf of workers at Western Geco, LLC, Houston, Texas.

The Department issued a negative determination applicable to the petitioning group of workers on April 9, 2003 (TA–W–51,251). No new information or change in circumstances is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation would serve no purpose, and the investigation has been terminated.